

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: David R. Milich *et al.*

Serial No.: 10/630,070

Group No.:

Filed: 07/30/2003

Examiner:

Entitled: **Rodent Hepatitis B Virus Core Proteins As Vaccine
Platforms And Methods Of Use Thereof**

**INFORMATION DISCLOSURE
STATEMENT TRANSMITTAL**

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Dated: October 29, 2003

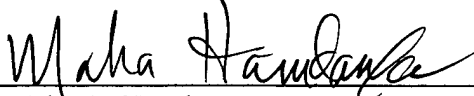
By: 
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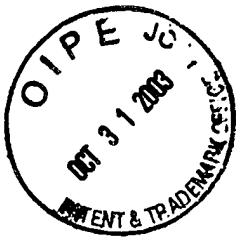
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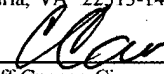


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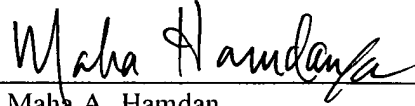
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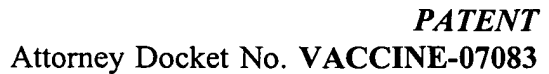
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Applicants have become aware of the following information and citations which may be material to the examination of the above-identified application:

- The inventors collaborated, more than one year before filing the instant application, with Dr. Darrell Peterson, at Virginia Commonwealth University, in the reduction to practice of one or more embodiments of the claimed invention. This collaboration is not "public use" under 35 U.S.C. §102(b) because it was not for profit, but rather for scientific research.¹ Also, this collaboration was not "public" because it was performed under a grant awarded by the National Institutes of Health (NIH), on which Dr. Peterson and co-

¹ *Electric Storage Battery Co. v. Shimadzu*, 307 US 5, 41 USPQ 155 (1939) ("[A] single use for profit, not purposely hidden" is public use).

inventor Dr. Milich were named as co-investigators. Thus, the collaboration occurred with an understanding and expectation of confidentiality.²

- U.S. Patent No. 6,602,705 issued 8/5/03 to Barnett *et al.*;
- U.S. Patent No. 6,406,705 issued 6/18/02 to Davis *et al.*;
- U.S. Patent No. 6,231,864 issued May 15, 2001 to Birkett;
- U.S. Patent No. 4,599,230 issued July 8, 1986 to Milich *et al.*;
- U.S. Patent No. 4,599,231 issued July 8, 1986 to Milich *et al.*;
- U.S. Patent No. 4,683,136 issued July 8, 1987 to Milich *et al.*;
- U.S. Patent No. 5,726,011 issued March 10, 1998 to Milich *et al.*;
- U.S. Patent No. 4,818,527 issued April 4, 1989 to Thornton *et al.*;
- U.S. Patent No. 4,882,145 issued November 21, 1989 to Thornton *et al.*;
- U.S. Patent No. 5,143,726 issued September 1, 1992 to Thornton *et al.*;
- WO 01/98333 A2 published 12/27/01;
- Genbank Accession No. NP_671816 printed 8/3/93;
- Genbank Accession No. NKVLC printed 7/16/99;
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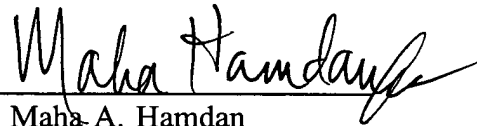
² *Xerox Corp. v. 3Com Corp.*, 49 USPQ2d 1772 (DC WNY, 9/29/98) (A disclosure is insufficient to constitute a "public use" under 102(b) if it is made with an understanding and expectation of confidentiality, even in the absence of an express confidentiality agreement).

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- Birkett, U.S. Patent Application No. 09/930,915, filed Aug. 15, 2001, published July 24, 2003 as Publication No. 20030138769, and entitled "Immunogenic HBc chimeric particles having enhanced stability," and
- Brown *et al.*, U.S. patent publication No. US 20030175296 published Sept. 18, 2003, and entitled "Chimeric hepatitis virus core antigen proteins."

This Information Disclosure Statement under 37 C.F.R. §§ 1.56 and 1.97 is not to be construed as a representation that a search has been made, that additional information material to the examination of this application does not exist, or that any one or more of these citations constitutes prior art.

Dated: 10-29-2003

Signed on behalf of:



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FORM PTO-144
(Modified)U.S. Department of Commerce
Patent and Trademark Office

Attorney Docket No.: VACCINE-07083

Serial No.: 10/630,070

INFORMATION DISCLOSURE STATEMENT BY APPLICANT
(Use Several Sheets If Necessary)

(37 CFR § 1.98(b))

Applicant: David R. Milich *et al.*

Filing Date: 07/30/2003

Group Art Unit:

U.S. PATENT DOCUMENTS

Examiner Initials	Cite No.	Serial / Patent Number	Issue Date	Applicant / Patentee	Class	Subclass	Filing Date
	1	4,683,195	7/28/87	Mullis <i>et al.</i>			
	2	4,683,202	7/28/87	Mullis			
	3	4,965,188	10/23/90	Mullis <i>et al.</i>			
	4	6,602,705	8/5/03	Barnett <i>et al.</i>			
	5	6,406,705	6/18/02	Davis <i>et al.</i>			
	6	6,231,864	5/15/01	Birkett			
	7	4,599,230	7/8/86	Milich <i>et al.</i>			
	8	4,599,231	7/8/86	Milich <i>et al.</i>			
	9	4,683,136	7/8/87	Milich <i>et al.</i>			
	10	5,726,011	3/10/98	Milich <i>et al.</i>			
	11	4,818,527	4/4/89	Thornton <i>et al.</i>			
	12	4,882,145	11/21/89	Thornton <i>et al.</i>			
	13	5,143,726	9/1/92	Thornton <i>et al.</i>			

FOREIGN PATENTS OR PUBLISHED FOREIGN PATENT APPLICATIONS

		Document Number	Publication Date	Country / Patent Office	Class	Subclass	Translation	
							Yes	No
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